IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE NINTH DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE K.C. BHANU

WRIT PETITION NO : 17467 of 2004

Between:

M.Manjeswara Rao, s/o late M.Koteswara Rao,
Bhavadevarapally, SS. Nagayalanka Section,
Chalapally Sub Division, Krishna District.

..... PETITIONER

AND

1 The Divisional Engineer, Electrical (Operation)
Southern Power Distribution Co.Ltd., (SPDC), Machilipatnam,

Krishna District.
2 The Assistant Division Engineer (Operation) Challapally Sub

Division, Krishna District.

.....RESPONDENTS.

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue writ, order or direction more particularly one in the nature of writ of "Mandamus" declaring the action of the 1st respondent in placing the petitioner under suspension in Memo No.D.E.E./o/MTM/Adm./U2/D.No.5662/2003, dated 29-11-2003 as illegal, arbitrary, non application of mind, without jurisdiction and in violation of principles of natural justice and set aside the same and consequently direct the respondents to re-instate the petitioner into service.

Counsel for the Petitioner: MR.M.RATNA REDDY

Counsel for the Respondents: MR.S.RAVINDRANATH

The Court at the admission stage made the following :

ORDER:

Placing the petitioner under suspension by the first respondent in its Memo No.D.E.E./o/MTM/Adm/U2/D.No.5662/2003, dated
29-11-2003, the present writ petition is filed.

2. The respondents also filed their counter. The facts are not in dispute.

3. One Pedapudi Jacob filed a complaint before the Police alleging against the petitioner for offence alleged to have been committed by him under Section 420 of the Indian Penal Code. In pursuance of that case, the Police registered a case under Section 420 of the Indian Penal Code and ultimately filed charge sheet. The case is registered basing on the complaint referred by the Court under Section 156(3) of the Code of Criminal Procedure. Thereafter, the petitioner was arrested on 23-11-2003 and he was remained in judicial custody till 28-11-2003. The respondents by invoking Regulation 11(b) of A.P.S.P.D.C.I., placed the writ petitioner under suspension. Regulation 11(b) of A.P.S.P.D.C.I reads as follows:

> "Any Board Staff/Employee shall be deemed to have been placed under suspension by an order of the authority competent place him under suspension which effect from the date of his detention, if he is detained in the custody whether on Criminal charges or other wise for period of exceeding 48 hours or more."

4. From the above Regulation, it is clear that an employee can be suspended if he is detained in custody exceeding 48 hours. In this case, the petitioner was detained in

custody for more than 48 hours and so the respondents rightly suspended the petitioner. Thereafter the case of the petitioner has to be reviewed after three months as per the Regulation No.11(2). But no orders have been passed. There is no material filed before this Court at this stage whether the case of petitioner was reviewed or not. It is not the case of any misconduct relating to the employment of the petitioner to the respondent Corporation or any negligence or misconduct for discharging of his official duties. The said private complaint is filed before the Court and the same was referred to the Police for investigation. So that private transaction is nothing to do with the official discharge of duties by the writ petitioner. Hence, the case of the petitioner has to be considered having regard to all the circumstances into consideration. Hence, the respondents are directed to review the case of the petitioner within a period of one week from the date of receipt of a copy of this order and take appropriate steps to revoke the suspension order.

5. The writ petition is, accordingly, disposed of. In the circumstances, no costs.

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K.C.BHANU, J

Date: 09-12-2004.

CHVN/Stp.

Note: C.C. by 13-12-2004.

Chvn/Stp

To

1 The Divisional Engineer, Electrical (Operation)
Southern Power Distribution Co.Ltd., (SPDC), Machilipatnam,

Krishna District.

2 The Assistant Division Engineer (Operation) Challapally Sub

Division, Krishna District.

3 Two C.D.copies.